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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,515	06/12/2001	Billy W. Colston	IL-10715	5330

7590 02/10/2003

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EXAMINER

TRAN, MY CHAU T

ART UNIT

PAPER NUMBER

1639

DATE MAILED: 02/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n No.

09/880,515

Applicant(s)

COLSTON ET AL.

Examiner

My-Chau T. Tran

Art Unit

1639

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 January 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1-9 and 36-43.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


PADMASHRI PONNALURI
PRIMARY EXAMINER

Continuation of 2. NOTE: The new limitation of "composed of sequential operations" was not previously presented and their consideration would necessitate new search and examination to determine patentability. Further, this limitation would also raise the issue of new matters.

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments filed 1/14/03 have been fully considered but they are not found persuasive.

Applicant argument for the rejection under 35 USC 103(a) as being unpatentable over Pyle et al. (US Patent 5,821,066). Applicant contends that the examiner admit that Pyle et al. does not teaches or suggest the claimed step of adding the fluorescent labeled antibodies. It is the examiner position that this is incorrect for it is clearly stated in the previous office action that "Pyle et al. does not expressly disclose that the method step of adding the fluorescent labeled antibodies for attachment to the bead bound sample occurs before the method step of attaching the beads to a substrate". Further, applicant's arguments of "attaching" and "inserting" operational steps is considered moot because it has been clearly addressed in the previous office action. Therefore, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant argument for the rejection under 35 USC 103(a) as being unpatentable over Marshall (US Patent 5,236,826) in view of Okusa et al. (US Patent 4,952,520). Applicant argues that the examiner admit that Marshall does not teach or suggest the filter material (substrate) is on a dipstick. It is the examiner position that this is an improper response to 35 USC 103(a) for it is clearly stated in the previous office action as to how Okusa et al. cure that deficiency of Marshall. Further in the previous office action, Marshall does teaches the "forming" step of claim 42 and the "decoding" step of claim 43. Therefore, applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references..